

REMARKS

Claims 1-10 are pending in the application. Claims 1 and 8 have been amended.

Submitted herewith is a corrected version of Fig. 4, as required by the Examiner.

Previously submitted proposed corrections to Fig. 4 were approved at paragraph 1 of the Office Action.

Claims 1-10 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite because the phrase "length significantly greater than a hand width of a user" in independent claims 1 and 8 is unclear. This phrase has been eliminated from claims 1 and 8. Applicants believe that this amendment is fully responsive to the Examiner's concerns.

Claims 1, 2 and 8 were rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent 6,280,396 (Clark). Claim 3 was rejected under 35 U.S.C. §103(a) as being unpatentable over Clark in view of U.S. Patent 5,817,031 (Masuo). Claim 4 was rejected under 35 U.S.C. §103(a) as being unpatentable over Clark. Claims 5 and 9 were rejected under 35 U.S.C. §103(a) as being unpatentable over Clark in view of U.S. Patent 6,478,736 to Mault. Claims 6, 7 and 10 were rejected under 35 U.S.C. §103(a) as being unpatentable over Clark in view of Mault and further in view of U.S. Patent 6,370,5513 (Kolawa). These rejections are respectfully traversed. Applicants respectfully request reconsideration and allowance of the claims in view of the following arguments.

Regarding the anticipation rejection of independent claims 1 and 8 based on Clark, claims 1 and 8 have been amended to recite that the plurality of rod-like electrode members each have a shape and a length such that persons of differing heights can maintain the same posture when grasping the electrodes. These amendments are supported, for example, at page 7, lines 21-24 of the present application. This is an important feature of the claimed invention because it enables

the apparatus to accurately measure the bioelectrical impedance of users of different heights, since measurement errors caused by a change in posture due to a difference in height are minimized.

It is well-known that when measuring bioelectrical impedance between the user's hands, the user's posture is relevant because blood flow rate through the arms depends on the difference in height between the heart and the hands, and blood flow rate influences impedance. For example, blood flow rate decreases, and impedance and measured body fat percentage increases, when the user's hands are higher than the user's heart. As described in detail at col. 1:35 to col. 2:24 of previously cited U.S. Patent 6,327,494, when bioelectrical impedance is measured using hand electrodes, the examinee's arm must be approximately at a right angle to their torso region to obtain a stable measurement value.

Regarding the present invention, referring to Fig. 1 of the application, an adult can stand on the weighing device 7 while grasping the upper portion of rod-like electrodes 3, 4. On the other hand, a child can stand on weighing device 7 and grasp the lower part of electrodes 3, 4. Using the claimed electrodes, both the adult and the child can have the same posture (i.e., hands can be held horizontally) while being measured, although they are of different heights, thereby ensuring accurate measurements. See page 7, lines 21-24 of the present application. Likewise, referring to Fig. 8 of the application, a tall person and a short person can both maintain the same posture when grasping the electrode members 23, 24, as claimed, since the electrode members have a circular shape (see page 9, lines 21-24 of the application). In the embodiment of Fig. 9 of the application, a ratchet is formed at the joint between the pipe 33d and control panel 36, such that pipe 33d can pivot with the joint as a fulcrum. See page 10, lines 17-19 of the application.

Therefore, users of differing heights can maintain the same posture when grasping the electrode members 33, 34, as claimed.

The Clark reference does not disclose or suggest the recited electrode members of amended claims 1 and 8, having a shape and a length such that persons of differing heights can maintain the same posture when grasping the electrode members. The length of Clark's electrode members is about the width of a hand, as is apparent from Figs. 1, 2 and 5 of Clark. Therefore, users of differing heights cannot grasp the electrode members and maintain the same posture, as claimed. As a result, measurement errors would occur in Clark's device due to a difference in height between users.

Thus, Clark does not anticipate independent claims 1 and 8, because it does not disclose each and every element of those claims. In particular, Clark does not disclose the recited rod-like electrodes having a shape and a length such that persons of differing heights can maintain the same posture when grasping the electrode members. Furthermore, it would not have been obvious to modify Clark to include the claimed electrodes.

Consequently, independent claims 1 and 8 are patentable, as are claims 2 and 4, which depend from claim 1.

Regarding the obviousness rejection of claim 3 based on Clark and Masuo, the Masuo reference does not teach or suggest the rod-like electrodes having a shape and a length such that persons of differing heights can maintain the same posture when grasping the electrode members recited in claim 1, from which claim 3 depends. Like Clark, Masuo teaches short electrodes; i.e., only about as long as the hand width of a user. Therefore, any combination of Clark and Masuo, however made, would still be missing this important claimed feature, and it would not have been

obvious to add the claimed electrodes to any Clark/Masuo combination to yield the invention of claim 3.

Consequently, claim 3 is patentable.

Regarding the obviousness rejections of dependent claims 5-7 and 9-10 based on Clark, Mault and Kolawa, the additionally cited Mault and Kolawa references do not teach or suggest the rod-like electrodes having a shape and a length such that persons of differing heights can maintain the same posture when grasping the electrode members recited in claims 1 and 8, from which claims 5-7 and 9-10 respectively depend, missing from Clark. Neither Mault nor Kolawa teach or suggest any kind of electrode grasped by the hand. Therefore, any combination of Clark, Mault and Kolawa, however made, would still be missing this important claimed feature, and it would not have been obvious to add the claimed electrodes to any Clark/Mault or Clark/Mault/Kolawa combination to yield the invention of claims 5-7 or 9-10.

Consequently, claims 5-7 and 9-10 are patentable.

Reconsideration and withdrawal of the rejection of the claims under 35 U.S.C. §§102 and 103 are respectfully requested.

Accordingly, it is believed that all pending claims are now in condition for allowance. Applicants therefore respectfully request an early and favorable reconsideration and allowance of this application. If there are any outstanding issues which might be resolved by an interview or an Examiner's amendment, the Examiner is invited to call Applicants' representative at the telephone number shown below.

To the extent necessary, if any, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

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